

AKIN GUMP  
STRAUSS HAUER & FELD LLP

Attorneys at Law

TOM W. DAVIDSON  
202.887.4011/fax: 202.955.7719  
tdavidson@akingump.com

June 27, 2005

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 22054

Re: In the Matter of Second Periodic Review of the Commission's Rules and Policies  
Affecting the Conversion to Digital Television (MB Docket No. 03-15)  
Waiver of July 1, 2005 Digital Replication Deadline  
WDSI-DT, Chattanooga, Tennessee, Facility ID No. 71353

Dear Ms. Dortch:

WDSI License Corp., ("WDSI"), the licensee of WDSI-DT, Chattanooga, Tennessee, Facility ID No. 71353 ("Station"), by its attorneys, hereby submits this request for waiver and a six month extension of the July 1, 2005 deadline by which station licensees affiliated with a top-four network in the top 100 markets that receive a tentative digital channel designation in the channel election process on their current digital channel must construct full, authorized facilities ("Replication Deadline").<sup>1</sup> WDSI is working diligently to construct full digital facilities and expects to have completed 85% of the construction by July 1, 2005. However, due to severe financial constraints and circumstances beyond its control, WDSI is unable to meet the Replication Deadline. Accordingly, for the reasons detailed below, WDSI submits that a waiver and six month extension of the Replication Deadline is in the public interest.

Pursuant to a digital construction permit granted on January 4, 2001, WDSI was authorized to operate on Channel 40 with a maximum directional antenna effective radiated power ("ERP") of 1000 kilowatts ("kW") and an antenna height above average terrain ("HAAT") of 350 meters.<sup>2</sup> The cost to construct the digital facilities using the authorized antenna pattern is substantial. Subsequent to obtaining the construction permit for the complete digital buildout, WDSI and its ultimate parent, Pegasus Satellite Communications, Inc. ("PSC"), experienced

---

<sup>1</sup> See *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03-15 (rel. Sept. 7, 2004) ("*Second Periodic Review*").

<sup>2</sup> See CDBS File No. BMPCDT-19990416KH.

Ms. Marlene H. Dortch

June 27, 2005

Page 2

serious financial difficulties. As a result, on June 2, 2004, WDSI and PSC filed a petition for voluntary bankruptcy in the United States Bankruptcy Court, District of Maine (“Bankruptcy Court”).<sup>3</sup> On April 15, 2005, the Bankruptcy Court approved the Chapter 11 bankruptcy plan submitted by WDSI and PSC on January 7, 2005 and amended on January 31, 2005. The Chapter 11 bankruptcy plan took effect on May 5, 2005. Thus, WDSI, operated as a debtor-in-possession from June 2, 2004 until May 5, 2005. Pursuant to the reorganization plan and the required prior FCC approval, control of PSC and ultimately WDSI was transferred to The PSC Liquidating Trust on May 5.<sup>4</sup>

At the time the bankruptcy proceeding was initiated, given its financially distressed position, the estate had not yet decided on its future plans for WDSI or whether to authorize funds to complete WDSI’s high-cost digital buildout in accordance with its construction permit. Moreover, as a debtor-in-possession, at that time WDSI had an obligation to the Bankruptcy Court to minimize expenses and preserve the value of the estate. Accordingly, in an effort to minimize expenses and preserve the value of the WDSI assets, WDSI developed an alternative antenna pattern for its digital operations which would result in significant cost savings. On December 29, 2004, WDSI filed with the FCC an application to modify its construction permit to reflect the alternative antenna pattern (“Modification”). The FCC granted the Modification on January 31, 2005.

Recognizing the upcoming July 1, 2005 deadline for replication of its analog operations, WDSI placed preliminary orders for digital equipment in December 2004 and finalized its orders in January 2005 following FCC approval of the Modification. WDSI has since received much of this equipment necessary to implement the modification and has begun installation of its digital facilities. However, WDSI cannot complete the installation process until it receives certain equipment that its vendor has been unable to procure for reasons beyond WDSI’s and the vendor’s control. Specifically, due to the large number of broadcasters purchasing digital transmitters, the required “beam supply” transformers for the digital transmitters have been placed on backorder and are unavailable until after the Replication Deadline. WDSI’s vendor has indicated that it expects to receive the “beam supply” transformers by mid-July. WDSI, in turn, anticipates that it should receive the digital transmitters by the beginning of August, at which time it can complete the installation of its digital facilities by the end of August. Because

---

<sup>3</sup> See *Pegasus Satellite Television Inc. et al.*, Case Number 04-20878 (Chapter 11) (Bankr. D. Maine).

<sup>4</sup> See CDBS File No. BTCCT-20050408ADP.

Ms. Marlene H. Dortch  
June 27, 2005  
Page 3

the digital transmitters are unavailable until August, WDSI cannot meet the Replication Deadline.

In light of WDSI's recent severe financial constraints and its inability, due to circumstances beyond its control, to obtain all of the equipment necessary to complete its digital installation, WDSI requests a waiver and six-month extension of the Replication Deadline. Grant of such a request is in the public interest and fully consistent with the *Second Periodic Review*, which expressly contemplates waivers and extensions of the Replication Deadline for "those stations unable to provide the required service by [the FCC's] replication/maximization deadlines because of severe financial constraints or circumstances beyond a station's control."<sup>5</sup> WDSI has been financially distressed, as evidenced by the bankruptcy proceeding. As a result of such financial distress, as demonstrated above, WDSI's ability to acquire certain equipment was delayed. Further, when WDSI had the financial resources to acquire such equipment, it was unable to do so because the equipment has been backordered and is not presently available, a circumstance beyond WDSI's control. Although WDSI has requested a six month extension in accordance with the *Second Periodic Review*, WDSI anticipates that it will complete construction of its full, authorized digital facilities well in advance of such an extension. Specifically, as discussed above, WDSI expects to receive the digital transmitters in early August and to complete the digital installation and begin operations and fully replicate its analog signal by the end of August. Accordingly, the FCC should find that grant of the instant request is in the public interest.

Please direct any questions or inquiries regarding this matter to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom W. Davidson". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Tom W. Davidson, Esq.

cc: Michael Nachman, Esq.  
Shaun Maher, Esq.

---

<sup>5</sup> See *Second Periodic Review*, at ¶ 87. The FCC stated in the *Second Periodic Review* that it would grant extensions of the Replication Deadline on a six-month basis. *Id.*